

DRAFT



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, FEBRUARY 4, 2008

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel. Staff present: Acting City Manager Arnoult, Assistant City Managers Felton and Tomasello, Director of Community Development Kauffmann, Facilities and Capital Projects Directors Geiling, Planning Director Pruss, and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Linda Plummer, Gaithersburg resident

II. INVOCATION

The invocation was led by Rick Price, First Church of Christ, Scientist who asked for a reflection on the loss of Principal Sharon Jones, Gaithersburg Elementary School, former Citizen of the Year Delbert Foster, County Council Member Marilyn Praisner and County Planning Board Member Eugene "Gene" Lynch. Mayor Katz expressed condolences to the families and friends.

III. CLOSED EXECUTIVE SESSION ANNOUNCEMENTS

1. Council Vice President Marraffa announced that a closed meeting was held by the Mayor and City Council on Tuesday, January 22, 2008, at approximately 9:12 p.m., pursuant to a motion adopted unanimously during a regular meeting held on January 22, 2008. The meeting was closed pursuant to Section 10-508(a)(7), State Government Article, of the Annotated Code of Maryland, to discuss a legal matter. The purpose of the session was to discuss the status of pending litigation. Present at the closed meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma and Spiegel, Acting City Manager Arnoult and Richard Colaresi (representing the City for LGIT). Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:45 p.m.
2. Council Member Spiegel announced that a closed meeting was held by the Mayor and City Council on Monday, January 28, 2008, at approximately 7 p.m., pursuant to a motion adopted unanimously at a special meeting held on January 28, 2008. The meeting was closed pursuant to Section 10-508(a)(1)(i), State Government Article, of the Annotated Code of Maryland, to discuss a personnel matter. The purpose of the session was to interview candidates for the position of City Attorney. Present at the closed meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma and Spiegel, Acting City Manager Arnoult and Human Resource Director Daily. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 8:48 p.m.
3. Council Member Ashman announced that a closed meeting was held by the Mayor and City Council on Monday, January 29, 2008, at approximately 7 p.m., pursuant to a motion adopted unanimously at a special meeting held on January 29, 2008. The meeting was closed pursuant to Section 10-508(a)(1)(i), State Government Article, of the Annotated Code of Maryland, to discuss a personnel matter. The purpose of the session was to interview candidates for the position of City Attorney. Present at the closed meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma and Spiegel, Acting City Manager Arnoult and Human Resource Director Daily. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:06 p.m.

IV. APPROVAL OF MINUTES

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the minutes of the Mayor and Council regular meeting held January 22, 2008, be approved.

Vote: 5-0

Motion was made by Council Member Ashman, seconded by Council Member Drzyzgula, that the minutes of the Mayor and Council special meeting held January 28, 2008, be approved.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the minutes of the Mayor and Council special meeting held January 29, 2008, be approved.

Vote: 4-0-1 (Abstained: Spiegel)

V. APPOINTMENTS**Resolution Confirming Reappointments**

This resolution confirmed the following reappointments: **Communications Committee**, Claudia Jones, 18613 Carriage Walk Circle, 20877, two-year term; **Education Committee**, Vicki Conner, 8 Hartley Place, 20878, two-year term; **Gaithersburg Senior Council**, Vandana Kharod, 19385 Keymar Way, Montgomery Village, 20878 and Dr. John Rhee, 909 Pointer Ridge Drive, 20878, two-year terms; **Multicultural Affairs Committee**, Maxine Oliver, 426 Belle Grove Road, 20877 and Linda Plummer, 17720 Garrett Drive, 20878, two-year terms; **Police Chief's Advisory Council**, Ted Blitgen, 15 Timber Rock, 20878, Dr. Markham C. Luke, 227 Lake Street, 20878, and Carlos Solis, 426 East Diamond Avenue, 20877, two-year terms; and the **Technology & Innovations Committee**, Justin Preuninger, 4 Sanders Court, 20877, two-year term.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Marraffa, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING REAPPOINTMENTS BY THE MAYOR TO THE COMMUNICATIONS COMMITTEE, EDUCATION COMMITTEE, GAITHERSBURG SENIOR COUNCIL, MULTICULTURAL AFFAIRS COMMITTEE, POLICE CHIEF'S ADVISORY COUNCIL, AND THE TECHNOLOGY & INNOVATIONS COMMITTEE (Resolution No. R-9-08), be approved.

Vote: 5-0

VI. PUBLIC APPEARANCES

1. *Clark Day, 26 Walker Avenue*, expressed safety concerns with loitering reoccurring by day laborers at various locations along North Frederick Avenue. He thanked Police Chief King for his efforts to monitor and control the activity in the historic neighborhood. He expressed opposition to the Mayor and City Council's recent consideration to renegotiate with a developer for affordable housing at the Wye site after voting on the exemption for Olde Towne.

2. *Tova Fliegel, owner of 115 East Diamond Avenue*, stated she has been working to resolve a long standing stormwater management issue on a neighboring City-owned property known as Lot 5. She stated that the legal process which began will have to continue until an agreement can be reached, but expressed appreciation for the City's efforts to resolve the matter.
3. *Linda Plummer, 17720 Garrett Drive*, invited the community to join the Mayor and City Council at their February 19, 2008 meeting to participate in the celebration of African American History Month.
4. *Prentiss Searles, 10 Walker Avenue*, stated that the Mayor and City Council voted to exempt Olde Towne from affordable and work force housing. Expressed concern with any renegotiations with the developer to pursue developing such housing on the Wye site. He asked the Mayor and City Council to not go back on their commitment to the residents of Olde Towne.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Ashman

1. Stated he supported asking the question at the retreat to explore the idea of affordable housing at the Wye site. He further stated that the intent was not to remove the exemption in Olde Towne but to take the opportunity to use City land and forward other initiatives such as Work Force Housing for the Police Department. He clarified that he would like the City to use revenue from the sale of the land to promote other goals of the Mayor and City Council.
2. Attended Gaithersburg Day in Annapolis on Thursday, January 31, 2008, which was a successful visit.
3. Encouraged citizens to subscribe to Alert Gaithersburg system and asked staff to prepare a formal announcement to be read at the Mayor and City Council meetings. Citizens can sign up at alert.gaithersburgmd.gov. The alert system will also forward Montgomery County alerts.

Council Member Spiegel

1. Responded to public comments under public appearance. He clarified the legal difference between the affordable housing exemption for the Gaithersburg Central Business District and legal freedoms to contract over a piece of property that one owns. He pointed out that development for the Wye site has not been decided. He stated that affordable housing is an important component of redevelopment in Olde Towne and throughout the City.
2. Referred to the anti-solicitation Ordinance and stated that there are laws on the books to prevent illegal activities, but did not believe the City's Ordinance as written is constitutional.
3. Reiterated that Gaithersburg Day in Annapolis was extremely successful. He thanked staff for their efforts to coordinate the event.
4. Expressed condolences to the families and friends of the individuals mentioned above.

Council Vice President Marraffa

1. Echoed condolences to the families and recognized the commitment and their years of service to the communities.
2. Attended the Maryland Municipal League annual Board of Directors meeting along with Mayor Katz.
3. Referred to the comments on the Wye site and stated that the Mayor and City Council made a commitment to revitalize and exempt Olde Towne from affordable housing development.

Council Member Sesma

1. Announced that registration is underway for Gaithersburg's summer camp programs. For a complete listing visit the City's website at www.gaithersburgmd.gov or pick-up a 2008 "Summer in the City" Guide at the Activity Center at Bohrer Park, 506 South Frederick Avenue.
2. Echoed the words of condolence to the families of the officials and to the Gaithersburg Elementary School community. He urged students to remember the lessons taught by Principal Jones such as the importance of citizenship and education.
3. Commented on the Wye site stating that no vote was taken by the Mayor and City Council at the retreat to remove Olde Towne's exemption for affordable housing. He stated that the discussion revolved around the RFP for the Wye site. During the discussion, a question was asked whether or not the City being one of the parties that own the property, can make arrangements within the contract between parties to change the terms of the contract. He further stated that when an opportunity arises to partner and advance the goals of the City to develop inclusive housing, it should be discussed.
4. Expressed continued support to protect the neighborhoods and businesses in Gaithersburg regardless of what comes back from the State's Attorney's Office.
5. Addressed the issue of foreclosures that has affected so many homeowners. He questioned what educational programs the City can provide to assist homeowners. Assistant City Manager Felton reported that the City has received a series of requests from citizens in the recent weeks. Staff has begun identifying what programs are available at the state and county level and what the City can do. He further stated that a RFP has been put out that would in addition to housing counseling, assist with eviction and foreclosure prevention. Mayor Katz added that the state is looking into revamping programs in place that are not effective. Also, there are several bills pending that would address the programs. He directed staff to investigate what Montgomery County is doing and asked that a contact person be assigned to assist the citizens. Mr. Felton stated that Human Services staff have been taking telephone calls and assisting citizens.

Council Member Drzyzgula

1. Announced vacancies on various City Boards, Commissions, and Committees.
2. Reported she spoke with State Attorney McCarthy and made it clear that loitering in the neighborhoods of the historic district is still an issue that the City still will need to address. Expressed support to move forward and develop alternatives.
3. Referred to Wye site discussion and stated that she was opposed to the questioning of affordable housing on the project. She stated that it is not an issue of legal or opportunity, but a question of setting a policy. She stated that the goal should be to encourage investment in the area and consistency is a must. She expressed support for a housing program for Police Officers.

Mayor Katz

1. Stated that as a property owner in Olde Towne, he did not participate in the discussion at the retreat, but expressed that valid points were made. He suggested that once a potential purchaser comes with a proposal, that a public discussion be scheduled on what has been proposed.
2. Citizen requested the feasibility of a count down walk signal for the railroad tracks coming from the Shell Station into Olde Towne.
3. Citizen requested more and different postcards for sale at City Hall.

4. Announced the following meeting schedule:

- no work session on Monday, February 11, 2008 at City hall, but will receive a training and orientation from representatives of the Maryland Municipal League at the Casey Community Center, 810 South Frederick Avenue. The public is welcome to attend and observe, but will not be involved in the discussions.
- next regular meeting on Tuesday, February 19, 2008.

5. Announced that the nomination for a City Attorney is anticipated at the next meeting on February 19, 2008.

VIII. FROM THE ACTING CITY MANAGER

Reported the Mayor and City Council and staff held a Strategic Planning Retreat on January 19, 2008 and received valuable input on the Plan. He stated that an updated Plan will be available at the Tuesday, February 19, 2008 meeting. He further stated that staff is working on action items identified during the retreat and will come back with periodic updates.

IX. PUBLIC HEARING**Public Hearing to Solicit Input on the City's Consolidated Planning Process for Community Development Block Grant (CDBG) Funding Through the U.S. Department of Housing and Urban Development (HUD)**

Director of Community Development Kauffmann stated that the hearing above was advertised in the *Gaithersburg Gazette* on January 4, 2008 and in *El Pregonera* on January 10, 2008. Staff held two community meetings to solicit resident input and prepare a need survey which was distributed to all City committee members, posted on the City website and provided to the more than 80 members of the Gaithersburg Coalition of Providers. The results of the survey have not been yet tabulated, but she reported that affordable housing continues to be a high priority for low-income City residents. The CDBG Program provides the City with approximately \$450,000 per year to be used primarily to benefit low-income residents and special needs populations, including the elderly and disabled. She further stated that 15 percent of CDBG funds may be used to support non profit agencies working with low-income Gaithersburg residents. On January 30, 2008, the City issued a Request for Proposals for professional housing counseling services in addition to the City's ongoing housing program for rentals. Programs to assist homeowners facing mortgage default and possible foreclosure would be offered. Coupled with housing counseling services for renters, and given the emphasis on expanding and preserving homeownership by the U.S. Department of Housing and Urban Development (HUD), staff believes this is an appropriate use of CDBG public service funds.

Director Kauffmann stated that the City's completed Consolidated Plan covering the five-year period (July 2008 – June 2013) will go out for public comment in April and be submitted to HUD mid-May 2008. Prior to submission to HUD, the plan will be available for a 30-day comment period, after which all comments must be considered and summarized in the Plan. Staff will bring the proposed project for FY'09 funding to the City Council for approval. Staff recommended that the record be held open until 5 p.m., Friday, February 29, 2008, with policy discussion anticipated for Monday, April 7, 2008.

There were no speakers at the hearing.

Motion was made by Council Member Sesma, seconded by Council Member Ashman, that the Mayor and City Council hold their record open on the above until February 29, 2008.

Vote: 5-0

X. ORDINANCES, RESOLUTIONS, AND REGULATIONS**1. Resolution for the Casey Community Center Interior Improvements and Modifications**

This resolution authorized the City Manager to award a contract for the above services to Colossal Contractors, Inc., 15456 Old Columbia Pike, Burtonsville, Maryland 20866, in the estimated amount of Two Hundred Twenty Thousand Five Hundred Fifteen Dollars (\$220,515); said funds to be expended from the Capital Improvements Budget. It was noted that the project is being funded with CDBG funds.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT FOR CASEY COMMUNITY CENTER INTERIOR IMPROVEMENTS AND MODIFICATIONS (Resolution No. R-10-08), be approved.

Vote: 5-0

Mayor Katz mentioned that the Salk Vaccine for Polio was discovered by Dr. Jonas Salk at the Casey Community Center. The Mayor and City Council agreed and directed staff to develop a plaque with the historic significance of the structure for display.

2. Resolution Changing the Effective Date of Ordinance No. O-7-07 (Anti-Solicitation) Adopting Section 15-9, and Providing for Future Changes to the Effective Date by Resolution

Assistant City Manager Felton stated that the resolution would change the effective date of the anti-solicitation Ordinance. He reiterated that the State's Attorney Office has taken the position that they will not enforce the City's Ordinance. On May 15, 2007, the City requested an Attorney General Opinion on the constitutionality of the Ordinance. On June 18, 2007, the City Council adopted Emergency Ordinance No. O-7-07 changing the effective date and provided that any future changes to the Ordinance could be implemented by resolution. In January, staff asked the effective date to be change given that the State's Attorney Office is still unwilling to prosecute violations of the City's anti-solicitation Ordinance. To date, no opinion has been received and staff is recommending that the City Council again change the effective date of the Ordinance. It was noted that the City did receive a written response from the Office of the Attorney General stating that a draft opinion was prepared and that the process should be completed mid-February 2008. Assistant City Manager Felton stated that staff is meeting to discuss alternatives if the Ordinance is found unconstitutional.

Motion was made by Council Member Sesma, seconded by, Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL CHANGING THE EFFECTIVE DATE OF ORDINANCE NO. O-7-07 (ANTI-SOLICITATION) ADOPTING SECTION 15-9, AND PROVIDING FOR FUTURE CHANGES TO THE EFFECTIVE DATE BY RESOLUTION (Resolution No. R-11-08), be approved.

Vote: 4-0-1 (Abstained: Drzyzgula)

XI. FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF**Planning Director Pruss**

- **Staff Recommendation to Close the Record on MP-2-07 as of 5 p.m. on Friday, February 22, 2008 (*Community Facilities Element, an Amendment to the 2003 Master Plan*)**

Motion was made by Council Member Ashman, seconded by Council Member Sesma, that the Mayor and City Council close their record on the above recommended date.

Vote: 5-0

- **Staff Recommendation to Extend the Existing Record of Z-307 and Hold the Record Open Indefinitely (*Summit Shopping Center*)**

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the Mayor and City Council hold the record on Z-307, open indefinitely.

Vote: 5-0

Assistant City Manager Tomasello

- Followed-up on the Wye site comments made earlier in meeting. He stated that he has been in contact with a potential developer for the site. He reported that the developer did not take the comments as a potential switch for development and did not have a response as to what they intended to do, but a dialogue has been established.
- He and Cindy Hines met with representatives of the State to discuss the State's approval for the Central Business District's designation as an enterprise zone. As part of the application process, staff will advertise for public hearing during the February 19, 2008 Mayor and City Council meeting.

XII. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:47 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant